

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

JOHN ANTHONY GENTRY

Plaintiff,

v.

JUDGE JOE H. THOMPSON,

Defendant.

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Case No. 3:16-cv-2617

JURY DEMANDED

**DEFENDANT’S RESPONSE IN OPPOSITION TO PLAINTIFF’S
MOTION TO SET EVIDENTIAL OR OTHER APPROPRIATE HEARING**

Defendant, Circuit Court Judge Joe H. Thompson, submits this response in opposition to Plaintiff’s request for a hearing. The hearing would address a motion to dismiss filed by Judge Thompson, which sought dismissal of this claim based on the *Rooker-Feldman* doctrine, absolute judicial immunity, the statute of limitations, and the Eleventh Amendment. (RE 11, Motion to Dismiss.) The Magistrate Judge’s Report and Recommendation found that these arguments were well-taken and recommended dismissal of all claims with prejudice. (RE 20, Report and Recommendation.)

Local Rule 78.01 states that “[a]ll motions shall be in writing and shall be decided by the Court without oral hearings unless otherwise ordered by the Court.” Here, an oral hearing is not necessary to rule upon Judge Thompson’s motion to dismiss. “The purpose of a motion to dismiss is to test the sufficiency of the pleading before the Court.” *Dillard v. Suarez Serrano*, No. 12-2182-STA-DKV, 2013 WL 12043557, at *5 (W.D. Tenn. Mar. 1, 2013); *see also Dyer v. Intera Corp.*, 870 F.2d 1063, 1066 (6th Cir. 1989) (stating that a motion to dismiss “tests the legal sufficiency of the party’s pleading”). Thus, this Court need only look to the sufficiency of the

Amended Complaint to rule upon Judge Thompson's motion. Plaintiff has had the opportunity to present legal arguments for why his claim should not be dismissed; and he has presented those arguments in responding to Judge Thompson's motion to dismiss and through his objections to the Report and Recommendation. An oral hearing is not warranted in this instance, and therefore Plaintiff's motion should be denied.

Respectfully submitted,

HERBERT H. SLATERY III
Attorney General and Reporter

s/Joseph Ahillen
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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2017, a copy of the foregoing was filed electronically. On this same date, a copy of the foregoing was sent by first-class mail to the following address:

John A. Gentry
208 Navajo Court
Goodlettsville, TN 37072

s/Joseph Ahillen
JOSEPH AHILLEN